

In the United States Court of Federal Claims

No. 13-727 C
(Filed: November 22, 2013)

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| MANUS MEDICAL, LLC, | * |
| | * |
| Plaintiff, | * |
| | * |
| v. | * |
| | * |
| THE UNITED STATES, | * |
| | * |
| Defendant, | * |
| and | * |
| | * |
| MARATHON MEDICAL, LLC, | * |
| | * |
| Defendant-Intervenor. | * |
| | * |

ORDER

On November 22, 2013, the court held a status conference to discuss defendant's motion to dismiss. In its motion to dismiss and during the status conference, defendant informed the court that the United States Department of Veterans Affairs ("VA") has yet to take any action regarding the contract award to Manus. Plaintiff's complaint challenges the propriety of the referral to the Small Business Administration ("SBA") and seeks injunctive and declaratory relief against the VA and SBA. Because the VA has not awarded the contract to an offeror other than plaintiff, any alleged injury is purely hypothetical. In essence, plaintiff is asking this court to issue an advisory opinion concerning the propriety of the VA's SBA referral before the VA awards the contract to another offeror, which in turn would lay the predicate for a justiciable claim. This court cannot do. The court, therefore, dismisses the complaint as unripe and denies plaintiff's request for injunctive and declaratory relief. The Clerk is directed to enter judgment accordingly.

Once the VA awards this contract, Ms. Milberg shall immediately notify plaintiff's counsel. When plaintiff files its bid protest arising from this solicitation, the Clerk shall assign the case to the undersigned and waive the court's filing fee.

IT IS SO ORDERED.

s/ Margaret M. Sweeney
MARGARET M. SWEENEY
Judge